

ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE BILLING)	DOCKET NO. 23-015-U
PRACTICES OF SUMMIT UTILITIES)	ORDER NO. 6
ARKANSAS, INC.)	

ORDER

On April 21, 2023, the Attorney General of the State of Arkansas (AG) filed with the Arkansas Public Service Commission (Commission) a Motion requesting that the Commission suspend disconnection of service and implementation of late fees by Summit Utilities Arkansas, Inc. (SUA) (AG Motion). The AG states that SUA issued a statement on April 18, 2023, announcing its intent to “resume normal collections activities, including charging late fees and disconnecting customers for nonpayment, starting in July 2023,” after having voluntarily suspended late fees and disconnections in November of 2022 following the transition from CenterPoint Energy’s billing system to its own. The AG cites to Rule 2.06 of the Commission’s *General Service Rules* (GSRs) as prohibiting SUA from normal collections activities, including charging late fees and disconnecting customers for nonpayment while the investigation is pending. The AG also states that since the Commission just opened this Docket in March, there is not ample notice from SUA to start disconnections and assessing late fees as of July 2023. AG Motion ¶¶ 4-7 (Doc. #21).

On April 25 and 26, 2023, Arkansas Gas Consumers, Inc. (AGC) and Robert Weyrens and Beau Roberson (Weyrens Group), respectively, filed a Response indicating support of the AG Motion. AGC Response ¶ 4 (Doc. #24) and Weyrens Group Response ¶ 6 (Doc. #31).¹

¹ These two separate responses which merely agree with the AG Motion are the kind of duplicative filings that Order No. 2 sought to avoid by requiring joint participation.

On April 26, 2023, the General Staff (Staff) of the Commission filed its Response to the AG's Motion stating that while the AG relies on Rule 2.06 of the Commission's GSRs, it should be noted that this rule also requires customers to pay any undisputed amounts owed to the utility and that depending on the reason for suspension, the customer may be required to post a deposit. Further, Staff asserts GSR Rule 2.06(D)(4) allows utilities to suspend service while the complaint is processed for other valid reasons set forth in GSR Rule 6.01. Staff requests that if the Commission grants the AG's Motion, the entirety of Rule 2.06 be adhered to and that the provisions of Section 6 of the GSRs be followed. Staff Response ¶¶ 2-5 (Doc. #32).

Also on April 26, 2023, SUA filed its Response to the AG's Motion stating that the AG's Motion should be denied. SUA states that Rule 2.06 is not applicable because this Docket was not initiated by a customer complaint and is not related to a disconnection. SUA asserts that it has not issued a late fee to any customers or suspended the service of any customers since November 2022. In addition, SUA notes that the AG's Motion seeks to prohibit SUA from conducting normal collection activities indefinitely with respect to all 412,000 SUA customers and is not limited to the 128,292 Arkansas customers that received estimated bills for the time period at issue. SUA contends that it has a plan in place and has the ability to suspend late fees and disconnects on accounts directly impacted by a billing error. SUA asserts that it has given adequate notice to customers stating that it will resume normal collection activities in July. SUA also cites to customer confusion as a reason not to maintain suspension of disconnects and late fees. SUA also argues that the AG has failed to point to the violation of any Commission rule that might justify suspension of disconnections. SUA Response ¶¶ 1, 5-9, 13, 15.

On April 28, 2023, the AG filed a Reply addressing SUA's Response. The AG reiterates that resuming disconnections and late fees at this time is premature, as the Commission's investigations into SUA's high gas bills have just begun. Acknowledging SUA's concern that extending the moratorium will signal to customers that they do not need to pay their bills at all, he suggests that SUA communicate to its customers that they do need to continue paying their bills. AG Reply ¶¶ 1-4 (Doc. #40).

Findings and Ruling

The Commission is charged with the duty of ensuring that public utilities provide safe, adequate, and reliable utility service at just and reasonable rates. By law, such rates must allow public utilities the opportunity to recover the prudently incurred costs of providing such service and a fair rate of return on capital invested by the utilities for the purpose of providing such service. The Commission is also charged with the duty of ensuring that customers are not charged excessive rates for such service. The Commission is "vested with the power and jurisdiction, and it is made its duty, to supervise and regulate every public utility defined in § 23-1-101 and to do all things, whether specifically designated in this act, that may be necessary or expedient in the exercise of such power and jurisdiction, or in the discharge of its duty."²

GSR Rule 2.06 (D) states:

D. Effect of Complaint on Suspension

- (1) When a customer disputes a utility's reason for shutting off service, the utility shall not suspend service while the utility or the Commission processes the complaint. If the utility's reason for shutting off service is Rule 6.01.A., D., E., F., H., O., or Q., the customer may be required to post a deposit with the utility equal to the disputed amount while the utility or the

² Ark. Code Ann. § 23-2-301.

Commission processes a complaint. The customer must pay any undisputed amounts by the date printed on the most recent shut off notice to avoid suspension of service. If the utility is in error, the deposit will be promptly refunded with interest.

- (2) The utility may waive the deposit allowed by this Rule.
- (3) Nothing contained in Rule 2.06.D.(1) shall prevent a customer who fails to post a deposit under this Rule from complaining to the Commission, but such action shall not affect the utility's right to suspend service.
- (4) The utility may suspend service for some other valid reason set out in Rule 6.01. while the utility or the Commission processes the complaint.

Although SUA argues that GSR Rule 2.06(D)(1) does not apply because this Docket was not initiated by a customer and is not related to a disconnection, the rule at the very least provides guidance for the instant situation. The Docket was in fact initiated by the AG on behalf of customers because of various customer billing complaints, and customers may have experienced disconnections but for the fact that SUA voluntarily suspended disconnections. In addition, the Commission may address situations not covered by the rules or grant an exemption to the rules for good cause and if in the public interest.³

SUA points out that the AG's request for continued suspensions of disconnections would apply to all 412,000 SUA customers, regardless of whether they had a billing dispute being investigated in this Docket. SUA also states that only 128,292 customers had estimated bills for the relevant period, but errors on estimated bills have not been the sole billing complaint of customers. The billing errors alleged, and admitted by SUA in some instances, have affected a large number of customers and have led to widespread

³ RPP Rule 2.05(a).

customer confusion, and the Commission's investigations are continuing. While the Commission could consider limiting suspensions of disconnections and late fees to the limited subset of directly-affected customers with unresolved complaints, this would be confusing to customers and most likely difficult to administer. It would also encourage customers to file duplicative complaints that would already fall under the broad scope of the investigations requested by the AG in this Docket, creating an unnecessary backlog of individual complaint dockets for the Commission to adjudicate. Thus, it is in the interest of administrative efficiency and to avoid further customer confusion for the Commission to extend the disconnection moratorium broadly to all SUA customers at this time, which maintains the status quo.

Therefore, the Commission finds that it is in the public interest for SUA to suspend disconnections and late fees at this time, but the Commission will re-examine in approximately sixty days whether the suspension should continue.⁴ While under GSR Rule 2.06(D)(1) a customer should pay any amounts not disputed, because of the nature and large number of the complaints and the difficulty with determining what amounts are disputed and what are not, the Commission will not enforce this provision of the Rule. However, the Commission directs all Parties in contact with customers⁵ to urge customers to continue paying their bills, particularly for any undisputed amounts and for cases where Summit has already corrected any billing errors, so that large balances do not accumulate.⁶

⁴ The Commission will consider further developments of the record in the investigation over the additional sixty days.

⁵ Summit, the AG, AGC, the Weyrens Group, and Staff through its Consumer Services section.

⁶ Customers will be liable for billed charges unless the Commission finds them to be in error.

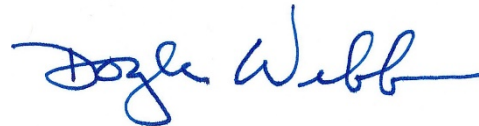
This Order shall not affect SUA's ability to disconnect a customer's service for public safety concerns unrelated to non-payment of services.

SUA shall provide notice of this Order's content on its website.

Having considered the AG's Motion, SUA's and Staff's Responses, and the Reply of the AG, the Commission finds that it is in the public interest for SUA to maintain suspension of late fees and disconnections at this time except as provided herein, but the Commission will re-examine in approximately sixty days whether the suspension should continue.

BY ORDER OF THE COMMISSION.

This 9th day of May, 2023.




Doyle Webb, Chair



Justin Tate, Commissioner



Katie Anderson, Commissioner


Jennifer R. Ivory, Secretary of the Commission

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

☐ U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or

☒ Electronic mail using the email address of each party as indicated in the official docket file